

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

STEVEN L. KLIEGMAN,) CASE NO.: C 09-0006 NJV
)
Plaintiff,) **[PROPOSED] ORDER OF DISMISSAL**
) **FOR FAILURE TO PROSECUTE**
v.)
)
COUNTY OF HUMBOLDT,)
)
Defendant.)
_____)

The Case Management Conference came before the Court as scheduled on August 24, 2010, at 2 p.m. Attorney William Mitchell of Mitchell, Brisso, Delaney & Vrieze, LLP appeared on behalf of the defendant County of Humboldt. The Court waited seventeen minutes past the scheduled hearing time to begin proceedings. No appearance was made by plaintiff.

As set forth in the Court's Order to Show Cause filed on July 21, 2010 (Doc. #35), the Court granted plaintiff's counsel's motion to withdraw as counsel on December 7, 2009, and provided plaintiff with thirty (30) days to identify new counsel or indicate his intention to proceed *pro se*. On May 17, 2010, due to plaintiff's failure to respond to the

1 Court's December 7, 2009 order regarding his intention to obtain new counsel or
2 represent himself, the Court substituted plaintiff *pro se* and relieved his formal counsel.
3 (Doc. #31.)

4 On January 20, 2010, a status conference was set for February 16, 2010. Plaintiff
5 failed to appear at this conference, and another status conference was set for March 16,
6 2010, at which plaintiff appeared *pro se*. (Doc. #35.) At that status conference, the Court
7 ordered that defendant's motion to dismiss be filed by April 15, 2010, and instructed
8 plaintiff that his response was due on April 29, 2010. (Doc. #28.)

9 On April 15, 2010, defendant filed a motion for judgment on the pleadings, to
10 which plaintiff did not file a timely response. (Doc. #35.) On May 17, 2010, the Court
11 then ordered plaintiff to respond to defendant's motion for judgment on the pleadings by
12 May 24, 2010. (Doc. #32.) Plaintiff failed to respond to the motion as ordered; however,
13 it was ultimately denied by the Court on June 10, 2010. (Doc. #33.) In its order denying
14 defendant's motion, the Court set a Case Management Conference for August 24, 2010,
15 and further ordered the parties to submit a Joint Case Management and Pre-Trial Order
16 no later than July 2, 2010. (Doc. #33.) The Court cautioned plaintiff that "[s]hould
17 Plaintiff continue to fail to follow this Court's orders and/or fail to respond to motions,
18 defendant may move, or the Court may sua sponte move, to involuntarily dismiss this
19 action for failure to prosecute," citing Federal Rule of Civil Procedure 41(b)." (*Id.*)

20 On July 2, 2010, defendant submitted a Pre-Trial Conference Statement indicating
21 that plaintiff failed to respond to multiple requests that he contact defense counsel in
22 order to prepare the afore-mentioned Joint Case Management and Pre-Trial Order. (Doc.
23 #34.)

24 Plaintiff subsequently requested an extension of time to respond to the Order to
25 Show Cause, which was granted by the Court in an order filed August 13, 2010. (Doc.
26 #37.) The Court ordered that plaintiff's response to the Court's Order to Show Cause

1 shall be filed no later than the close of business on Monday, August 23, 2010.

2 Plaintiff subsequently served and filed a response to Order to Show Cause on or
3 about August 23, 2010.

4 Having considered all the above, and good cause appearing,

5 IT IS HEREBY ORDERED that the above-entitled action be dismissed pursuant
6 to Federal Rules of Civil Procedure, Rule 41(b), without prejudice.

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9 Dated: __August 26, 2010__

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United States Magistrate Judge
NANDOR J. VADAS